IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3940 OF 2006
IN
INCOME TAX APPEAL LODGING NO.2216 OF 2006

The Commissioner of Income Tax ..Appellant.
Vs.
M/s. Divine Holdings P. Ltd. ..Respondents.

Mrs.P.P. Bhosale with B.M.Chatterji for the Appellant.

None for the Respondents.

CORAM : F.I. REBELLO & R.S. MOHITE, JJ.
DATED : 17TH DECEMBER,2007.

PC :

1. Heard Advocate for the Appellant.

2. This Notice of Motion has been filed for condonation of 138-days delay in filing the main appeal. On perusal of the affidavit in support of the Notice of motion, we find that the delay has been sought to be explained. It is contended before us that in December 2005, the processing of judicial matters was shifted from the Law Ministry to the Income Tax Department and this has resulted in several administrative difficulties. In certain cases all the papers have not been received. The panel counsel were also involved in dealing with older cases received from the Law Ministry. Taking into account all these facts, we propose to accept the cause shown for condonation of delay subject to levy of costs. Notice of motion is therefore, allowed and the delay in filing the appeal stands condoned subject to payment of

costs of Rs.5000/- which is to be paid directly to the respondents within a period of six weeks from today. It is made clear that the department will be at liberty to recover the costs from the officer responsible for causing the delay.

3. It is also made clear that if the respondents have any grievance relating to non effecting of service of this Notice of motion, they are at liberty to apply for recall of this order.

(R.S. MOHITE, J.) **(F.I.REBELLO, J.)**

:3:

x